



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2340

Introduced 2/19/2009, by Rep. Angelo Saviano

SYNOPSIS AS INTRODUCED:

See Index

Amends the Structural Engineering Practice Act of 1989. Replaces "Director" with "Secretary". Replaces "Department of Professional Regulation" with "Department of Financial and Professional Regulation". Provides that whenever the Secretary is not satisfied that substantial justice has been done in an examination, the Secretary may order a reexamination by the same or other examiners. In a provision concerning the Board, changes total number of members to 7 (now, 6), requires that 6 members be Illinois licensed structural engineers (now, 5), limits term of service to 10 years in a lifetime (now, 14 consecutive years), and provides that members may receive compensation as determined by the Secretary. Provides that a structural engineer applicant must pass an examination authorized by the Department as determined by rule to receive a license as a structural engineer (now, examination is conducted by the Department). Provides that the Department may take disciplinary action against any person that commits certain tax violations. Provides that the Department shall deny a license or renewal to a person that has defaulted on an education loan or scholarship provided or guaranteed by the State. Provides that the Department or Board, upon a showing of possible violation of the Act, may order a licensee or applicant to submit to a mental or physical examination, or both, at the expense of the Department. Provides that refusal by the licensee or applicant to submit to the examination when directed, without reasonable cause as defined by rule, shall be grounds for the immediate suspension of the license or denial of the application. Provides that any licensee suspended by the Department as a result of such mental or physical examination shall be entitled to a hearing within 15 days after the suspension. Provides that the Department and Board shall have the authority to review the licensee's record of treatment and counseling regarding the relevant impairment or impairments to the maximum extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records. Defines "address of record". Makes other changes. Effective immediately.

LRB096 08534 ASK 18655 b

A BILL FOR

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Structural Engineering Practice Act of 1989
5 is amended by changing Sections 4, 5, 6, 7, 8, 9, 10, 11, 14,
6 18, 19, 20, 20.5, 21, 22, 23, 24, 26, 27, 28 and 31 as follows:

7 (225 ILCS 340/4) (from Ch. 111, par. 6604)

8 (Section scheduled to be repealed on January 1, 2010)

9 Sec. 4. In this Act:

10 (a) "Address of record" means the designated address
11 recorded by the Department in the applicant's or licensee's
12 application file or license file maintained by the Department's
13 licensure maintenance unit. It is the duty of the applicant or
14 licensee to inform the Department of any change of address, and
15 such changes must be made either through the Department's
16 website or by directly contacting the Department.

17 (b) ~~(a)~~ "Department" means the Department of Financial and
18 Professional Regulation.

19 (c) ~~(b)~~ "Secretary" "~~Director~~" means the Secretary
20 ~~Director~~ of the Department of Financial and Professional
21 Regulation.

22 (d) ~~(e)~~ "Board" means the Structural Engineering Board
23 appointed by the Secretary ~~Director~~.

1 (e) ~~(d)~~ "Negligence in the practice of structural
2 engineering" means the failure to exercise that degree of
3 reasonable professional skill, judgment and diligence normally
4 rendered by structural engineers in the practice of structural
5 engineering.

6 (f) ~~(e)~~ "Structural engineer intern" means a person who is
7 a candidate for licensure as a structural engineer and who has
8 been enrolled as a structural engineer intern.

9 (g) ~~(f)~~ "Structural engineer" means a person licensed under
10 the laws of the State of Illinois to practice structural
11 engineering.

12 (Source: P.A. 91-91, eff. 1-1-00.)

13 (225 ILCS 340/5) (from Ch. 111, par. 6605)

14 (Section scheduled to be repealed on January 1, 2010)

15 Sec. 5. A person shall be regarded as practicing structural
16 engineering within the meaning of this Act who is engaged in
17 the design, analysis, or supervision ~~designing or supervising~~
18 of the construction, enlargement or alteration of structures,
19 or any part thereof, for others, to be constructed by persons
20 other than himself. Structures within the meaning of this Act
21 are all structures having as essential features foundations,
22 columns, girders, trusses, arches or ~~and~~ beams, with or without
23 other parts, and in which safe design and construction require
24 that loads and stresses must be computed and the size and
25 strength of parts determined by mathematical calculations

1 based upon scientific principles and engineering data. A person
2 shall also be regarded as practicing structural engineering
3 within the meaning of this Act who is engaged as a principal in
4 the design, analysis, or supervision ~~designing and supervision~~
5 of the construction of structures or of the structural part of
6 edifices designed solely for the generation of electricity; or
7 for the hoisting, cleaning, sizing or storing of coal, cement,
8 sand, grain, gravel or similar materials; elevators;
9 manufacturing plants; docks; bridges; blast furnaces; rolling
10 mills; gas producers and reservoirs; smelters; dams;
11 reservoirs; waterworks; sanitary works as applied to the
12 purification of water; plants for waste and sewage disposal;
13 round houses for locomotives; railroad shops; pumping or power
14 stations for drainage districts; or power houses, even though
15 such structures may come within the definition of "buildings"
16 as defined in any Act in force in this State relating to the
17 regulation of the practice of architecture.

18 (Source: P.A. 86-711.)

19 (225 ILCS 340/6) (from Ch. 111, par. 6606)

20 (Section scheduled to be repealed on January 1, 2010)

21 Sec. 6. The Department of Financial and Professional
22 Regulation shall exercise the following functions, powers and
23 duties subject to the provisions of this Act:

24 (1) To conduct ~~Conduct~~ examinations to ascertain the
25 qualifications and fitness of applicants for licensure as

1 licensed structural engineers, and pass upon the
2 qualifications and fitness of applicants for licensure by
3 endorsement.

4 (2) To prescribe ~~Prescribe~~ rules for a method of
5 examination of candidates.

6 (3) To prescribe rules to establish what constitutes an
7 engineering or related science curriculum, to determine if
8 a specific curriculum qualifies as an engineering or
9 related science curriculum, and to terminate the
10 Department's approval of any curriculum as an engineering
11 or related science curriculum for non-compliance with such
12 rules. ~~Prescribe rules defining what shall constitute a~~
13 ~~school, college or university or department of a~~
14 ~~university, or other institution, reputable and in good~~
15 ~~standing, and to determine the reputability and good~~
16 ~~standing of a school, college or other institution~~
17 ~~reputable and in good standing by reference to a compliance~~
18 ~~with such rules; provided that no school, college or~~
19 ~~university, or department of a university or other~~
20 ~~institution that refuses admittance to applicants, solely~~
21 ~~on account of race, color, creed, sex, religion, physical~~
22 ~~or mental handicap unrelated to ability, or national origin~~
23 ~~shall be considered reputable and in good standing.~~

24 (3.5) To register ~~Register~~ corporations, partnerships,
25 professional service corporations, limited liability
26 companies, and sole proprietorships for the practice of

1 structural engineering and issue a license to those who
2 qualify.

3 (4) To investigate ~~Investigate~~ complaints, to conduct
4 oral interviews, disciplinary conferences, and formal
5 evidentiary hearings on proceedings to refuse to issue,
6 renew or restore, or to suspend or revoke a license, or to
7 place on probation or reprimand a licensee for reasons set
8 forth in Section 20 of this Act.

9 (5) To formulate ~~Formulate~~ rules necessary to carry out
10 the provisions of this Act.

11 (6) To maintain ~~Maintain~~ membership in a national
12 organization that provides an acceptable structural
13 engineering examination and participate in activities of
14 the organization by designation of individuals for the
15 various classifications of membership and the appointment
16 of delegates for attendance at regional and national
17 meetings of the organization. All costs associated with
18 membership and attendance of such delegates to any national
19 meetings may be funded from the Design Professionals
20 Administration and Investigation Fund.

21 Prior to issuance of any final decision or order that
22 deviates from any report or recommendation of the Board
23 relating to the qualification of applicants, discipline of
24 licensees or registrants, or promulgation of rules, the
25 Director shall notify the Board and the Secretary of State ~~in~~
26 ~~writing~~ with an explanation of any such deviation and provide a

1 reasonable time for the Board to submit written comments to the
2 Director regarding the proposed action. In the event that the
3 Board fails or declines to submit such written comments within
4 30 days of said notification, the Director may issue a final
5 decision or order consistent with the Director's original
6 decision.

7 None of these functions, powers or duties shall be
8 exercised by the Department of Professional Regulation except
9 upon the action and report in writing of the Board.

10 Whenever the Secretary is not satisfied that substantial
11 justice has been done in an examination, the Secretary may
12 order a reexamination by the same or other examiners.

13 (Source: P.A. 91-91, eff. 1-1-00.)

14 (225 ILCS 340/7) (from Ch. 111, par. 6607)

15 (Section scheduled to be repealed on January 1, 2010)

16 Sec. 7. The Secretary ~~Director~~ shall appoint a Structural
17 Engineering Board, which shall consist of 7 ~~6~~ members. Six ~~Five~~
18 members shall be Illinois licensed structural engineers, who
19 have been engaged in the practice of structural engineering for
20 a minimum of 10 years, and one shall be a public member. The
21 public member shall be a voting member and shall not hold a
22 license as an architect, professional engineer, structural
23 engineer or land surveyor.

24 Members shall serve 5 year terms and until their successors
25 are appointed and qualified.

1 In making the designation of persons to act, the Director
2 shall give due consideration to recommendations by members of
3 the profession and by organizations of the structural
4 engineering profession.

5 The membership of the Board should reasonably reflect
6 representation from the geographic areas in this State.

7 No member shall be reappointed to the Board for a term
8 which would cause his or her ~~continuous~~ service on the Board to
9 be longer than 10 ~~14 successive~~ years in a lifetime. ~~Service~~
10 ~~prior to the effective date of this Act shall not be considered~~
11 ~~in calculating length of service.~~

12 Appointments to fill vacancies shall be made in the same
13 manner as original appointments, for the unexpired portion of
14 the vacated term. Initial terms under this Act shall begin upon
15 the expiration of the terms of Committee members appointed
16 under The Illinois Structural Engineering Act.

17 Persons holding office as members of the Board under this
18 Act on the effective date of this Act shall serve as members of
19 the Board under this Act until the expiration of the term for
20 which they were appointed and until their successors are
21 appointed and qualified under this Act.

22 A quorum of the Board shall consist of a majority of Board
23 members appointed. A majority of the quorum is required for
24 Board decisions.

25 The Secretary ~~Director~~ may terminate the appointment of any
26 member for cause which in the opinion of the Secretary ~~Director~~

1 reasonably justifies such termination, which may include, but
2 is not limited to, a Board member who does not attend 2
3 consecutive meetings.

4 Notice of proposed rulemaking shall be transmitted to the
5 Board and the Department shall review the response of the Board
6 and any recommendations made therein. The Department may, at
7 any time, seek the expert advice and knowledge of the Board on
8 any matter relating to the administration or enforcement of
9 this Act.

10 Members of the Board shall be immune from suit in any
11 action based upon any disciplinary proceedings or other
12 activities performed in good faith as members of the Board.

13 Each member of the Board may receive compensation as
14 determined by the Secretary ~~Whenever the Director is not~~
15 ~~satisfied that substantial justice has been done in an~~
16 ~~examination, the Director may order a reexamination by the same~~
17 ~~or other examiners.~~

18 (Source: P.A. 91-91, eff. 1-1-00; 92-237, eff. 8-3-01.)

19 (225 ILCS 340/8) (from Ch. 111, par. 6608)

20 (Section scheduled to be repealed on January 1, 2010)

21 Sec. 8. The Board has the following powers and duties:

22 (a) The Board shall hold at least 3 regular meetings each
23 year;

24 (b) The Board shall annually elect a Chairperson and a Vice
25 Chairperson, both of whom shall be Illinois licensed structural

1 engineers;

2 (c) The Board, upon request by the Department, may make a
3 curriculum evaluation to determine if courses conform to
4 requirements of approved engineering programs;

5 (d) The Department may at any time seek the expert advice
6 and knowledge of the Board on any matter relating to the
7 enforcement of this Act;

8 (e) The Board may appoint a subcommittee to serve as a
9 Complaint Committee to recommend the disposition of case files
10 according to procedures established by rule;

11 (f) The Board shall assist the Department in conducting
12 oral interviews, disciplinary conferences, informal
13 conferences, and formal evidentiary hearings;

14 (g) Upon request of the Department, the ~~The~~ Board shall
15 review applicant qualifications to sit for the examination or
16 for licensure and shall make recommendations to the Department,
17 and the Department shall review the Board's recommendations on
18 applicant qualifications; and

19 (h) The Board shall submit written comments to the
20 Secretary ~~Director~~ within 30 days from notification of any
21 final decision or order from the Secretary ~~Director~~ that
22 deviates from any report or recommendation of the Board
23 relating to the qualification of applicants, discipline of
24 licensees or registrants, or promulgation of rules.

25 (Source: P.A. 91-91, eff. 1-1-00.)

1 (225 ILCS 340/9) (from Ch. 111, par. 6609)

2 (Section scheduled to be repealed on January 1, 2010)

3 Sec. 9. Applications for original licenses shall be made to
4 the Department in writing on forms prescribed by the Department
5 and shall be accompanied by the required fee, which is not
6 refundable. The application shall require such information as
7 in the judgment of the Department will enable the Department to
8 pass on the qualifications of the applicant for a license. The
9 Department may require an applicant, at the applicant's
10 expense, to have an evaluation of the applicant's education in
11 a foreign county by a nationally recognized evaluation service
12 ~~educational body~~ approved by the Department Board in accordance
13 with rules prescribed by the Department.

14 An applicant who graduated from a structural engineering
15 program outside the United States or its territories and whose
16 first language is not English shall submit certification of
17 passage of the Test of English as a Foreign Language (TOEFL)
18 and a test of spoken English ~~the Test of Spoken English (TSE)~~
19 as defined by rule.

20 (Source: P.A. 91-91, eff. 1-1-00.)

21 (225 ILCS 340/10) (from Ch. 111, par. 6610)

22 (Section scheduled to be repealed on January 1, 2010)

23 Sec. 10. The Department shall authorize examinations of
24 applicants as structural engineers at such times and places as
25 it may determine. The examination of applicants shall be of a

1 character to give a fair test of the qualifications of the
2 applicant to practice structural engineering.

3 Applicants for examination as structural engineers are
4 required to pay, either to the Department or the designated
5 testing service, a fee covering the cost of providing the
6 examination. Failure to appear for the examination on the
7 scheduled date, at the time and place specified, after the
8 applicant's application for examination has been received and
9 acknowledged by the Department or the designated testing
10 service, shall result in the forfeiture of the examination fee.

11 ~~If an applicant neglects, fails without an approved excuse~~
12 ~~or refuses to take the next available examination offered for~~
13 ~~licensure under this Act, the fee paid by the applicant shall~~
14 ~~be forfeited to the Department and the application denied.~~ If
15 an applicant fails to pass an examination for a licensure under
16 this Act within 3 years after filing the application, the
17 application shall be denied. However, such applicant may
18 thereafter make a new application for examination accompanied
19 by the required fee, and must furnish proof of meeting the
20 qualifications for examination in effect at the time of new
21 application.

22 (Source: P.A. 91-91, eff. 1-1-00.)

23 (225 ILCS 340/11) (from Ch. 111, par. 6611)

24 (Section scheduled to be repealed on January 1, 2010)

25 Sec. 11. A person is qualified for enrollment as a

1 structural engineer intern or licensure as a structural
2 engineer if that person has applied in writing in form and
3 substance satisfactory to the Department and:

4 (a) The applicant is of good moral character. In
5 determining moral character under this Section, the Department
6 may take into consideration whether the applicant has engaged
7 in conduct or actions that would constitute grounds for
8 discipline under this Act.

9 (a-5) The applicant, if a structural engineer intern
10 applicant, has met the minimum standards for enrollment as a
11 structural engineer intern, which are as follows:

12 (1) is a graduate of an approved engineering curriculum
13 of at least 4 years meeting the requirements as set forth
14 by rule and passes a nominal 8-hour written examination in
15 the fundamentals of engineering; or

16 (2) is a graduate of a related science curriculum of at
17 least 4 years meeting the requirements as set forth by rule
18 and passes a nominal 8-hour written examination in the
19 fundamentals of engineering.

20 (b) The applicant, if a structural engineer applicant, has
21 met the minimum standards for licensure as a structural
22 engineer, which are as follows:

23 (1) is a graduate of an approved engineering curriculum
24 of at least 4 years meeting the requirements as set forth
25 by rule and submits evidence acceptable to the Department
26 of an additional 4 years or more of experience in

1 structural engineering work of a grade and character which
2 indicates that the individual may be competent to practice
3 structural engineering as set forth by rule; or

4 (2) is a graduate of an approved related science
5 curriculum of at least 4 years meeting the requirements as
6 set forth by rule who submits evidence acceptable to the
7 Department of an additional 8 years or more of progressive
8 experience in structural engineering work of a grade and
9 character which indicates that the individual may be
10 competent to practice structural engineering as set forth
11 by rule.

12 (c) The applicant, if a structural engineer applicant, has
13 passed an examination authorized ~~conducted~~ by the Department as
14 determined by rule to determine his or her fitness to receive a
15 license as a structural engineer ~~Structural Engineer~~.

16 (Source: P.A. 91-91, eff. 1-1-00.)

17 (225 ILCS 340/14) (from Ch. 111, par. 6614)

18 (Section scheduled to be repealed on January 1, 2010)

19 Sec. 14. The expiration date and renewal period for each
20 license issued under this Act shall be set by rule. The holder
21 of a license may renew the license during the month preceding
22 its expiration date by paying the required fee. ~~Beginning~~
23 ~~January 1, 1996, the holder of a license may renew the license~~
24 ~~during the month preceding its expiration by paying the~~
25 ~~required fee and submitting satisfactory evidence of knowledge~~

1 ~~in seismic design.~~

2 A licensed structural engineer who has permitted his
3 license to expire or who placed his license on inactive status
4 may have his license restored by making application to the
5 Department and filing proof acceptable to the Department of
6 fitness to have the license restored, including sworn evidence
7 certifying to active practice in another jurisdiction
8 satisfactory to the Department and by submitting evidence of
9 knowledge in seismic design and by paying the required
10 restoration fee.

11 If the licensed structural engineer has not maintained an
12 active practice in another jurisdiction satisfactory to the
13 Department, the Board shall determine, by an evaluation program
14 established by rule, that person's fitness to resume active
15 status and may require the licensed structural engineer to
16 complete an examination.

17 Any licensed structural engineer whose license has been
18 expired for more than 5 years may have his license restored by
19 making application to the Department and filing proof
20 acceptable to the Department of fitness to have the license
21 restored, including sworn evidence certifying to active
22 practice in another jurisdiction and by paying the required
23 restoration fee.

24 However, any licensed structural engineer whose license
25 has expired while such engineer was engaged (1) in federal
26 service on active duty with the Army of the United States, the

1 United States Navy, the Marine Corps, the Air Force, the Coast
2 Guard, or the State Militia called into the service or training
3 of the United States of America, or (2) in training or
4 education under the supervision of the United States
5 preliminary to induction into the military service, may have
6 his license restored or reinstated without paying any lapsed
7 renewal fees, reinstatement fee or restoration fee or passing
8 any examination, if within 2 years after termination of such
9 service, training or education other than by dishonorable
10 discharge such person furnishes the Department with an
11 affidavit to the effect that he has been so engaged and that
12 the service, training or education has been so terminated.

13 (Source: P.A. 86-711; 87-1237.)

14 (225 ILCS 340/18) (from Ch. 111, par. 6618)

15 (Section scheduled to be repealed on January 1, 2010)

16 Sec. 18. A roster showing the names and addresses of all
17 structural engineers licensed under this Act shall be prepared
18 by the Department ~~each year~~. This roster shall be available
19 upon ~~written~~ request and payment of the required fee.

20 (Source: P.A. 86-711.)

21 (225 ILCS 340/19) (from Ch. 111, par. 6619)

22 (Section scheduled to be repealed on January 1, 2010)

23 Sec. 19. Professional design firm registration;
24 conditions.

1 (a) Nothing in this Act prohibits the formation, under the
2 provisions of the Professional Service Corporation Act, as
3 amended, of a corporation to practice structural engineering.

4 Any business, including a Professional Service
5 Corporation, that includes within its stated purposes,
6 practices, or holds itself out as available to practice,
7 structural engineering, shall be registered with the
8 Department pursuant to the provisions of this Section.

9 Any sole proprietorship not owned and operated by an
10 Illinois licensed design professional licensed under this Act
11 shall be prohibited from offering structural engineering
12 services to the public. "Illinois licensed design
13 professional" means a person who holds an active license as a
14 structural engineer under this Act, as an architect under the
15 Illinois Architecture Practice Act of 1989, or as a
16 professional engineer under the Professional Engineering
17 Practice Act of 1989. Any sole proprietorship owned and
18 operated by a structural engineer with an active license issued
19 under this Act and conducting or transacting such business
20 under an assumed name in accordance with the provisions of the
21 Assumed Business Name Act shall comply with the registration
22 requirements of a professional design firm. Any sole
23 proprietorship owned and operated by a structural engineer with
24 an active license issued under this Act and conducting or
25 transacting such business under the real name of the sole
26 proprietor is exempt from the registration requirements of a

1 professional design firm.

2 Any partnership which includes within its purpose,
3 practices, or holds itself out as available to practice
4 structural engineering, shall register with the Department
5 pursuant to the provisions set forth in this Section.

6 (b) Any professional design firm seeking to be registered
7 under the provisions of this Section shall not be registered
8 unless at least one ~~a~~ managing agent in charge of structural
9 engineering activities in this State is designated by the
10 professional design firm. A designated managing agent must at
11 all times maintain a valid, active license to practice
12 structural engineering in Illinois.

13 No individual whose license to practice structural
14 engineering in this State is currently in a suspended or
15 revoked status shall act as a managing agent for a professional
16 design firm.

17 (c) No business shall practice or hold itself out as
18 available to practice structural engineering until it is
19 registered with the Department.

20 (d) Any business seeking to be registered under this
21 Section shall apply for a certificate of registration on a form
22 provided by the Department and shall provide such information
23 as requested by the Department, which shall include but shall
24 not be limited to:

25 (1) the name and license number of the person
26 designated as the managing agent in responsible charge of

1 the practice of structural engineering in Illinois. In the
2 case of a corporation, the corporation shall also submit a
3 certified copy of the resolution by the board of directors
4 designating the managing agent. In the case of a limited
5 liability company, the company shall submit a certified
6 copy of either its articles of organization or operating
7 agreement designating the managing agent;

8 (2) the names and license numbers of the directors, in
9 the case of a corporation, the members, in the case of a
10 limited liability company, or general partners, in the case
11 of a partnership;

12 (3) a list of all locations at which the professional
13 design firm provides structural engineering services to
14 the public; and

15 (4) A list of all assumed names of the business.
16 Nothing in this Section shall be construed to exempt a
17 professional design firm, sole proprietorship, or
18 professional service corporation from compliance with the
19 requirements of the Assumed Business Name Act.

20 It shall be the responsibility of the professional design
21 firm to provide the Department notice, in writing, of any
22 changes in the information requested on the application.

23 (e) In the event a managing agent is terminated or
24 terminates his status as managing agent of the professional
25 design firm, such managing agent and professional design firm
26 shall notify the Department of this fact in writing, by

1 certified mail, within 10 business days of such termination.

2 Thereafter, the professional design firm, if it has so
3 informed the Department, shall have 30 days in which to notify
4 the Department of the name and registration number of a newly
5 designated managing agent. If a corporation, the corporation
6 shall also submit a certified copy of a resolution by the board
7 of directors designating the new managing agent. If a limited
8 liability company, the company shall also submit a certified
9 copy of either its articles of organization or operating
10 agreement designating the new managing agent. The Department
11 may, upon good cause shown, extend the original 30 day period.

12 If the professional design firm fails to notify the
13 Department in writing by certified mail within the specified
14 time, the registration shall be terminated without prior
15 hearing. Notification of termination shall be sent to the
16 address of record ~~by certified mail to the last known address~~
17 ~~of the business~~. If the professional design firm continues to
18 operate and offer structural engineering services after the
19 termination, the Department may seek prosecution under
20 Sections 20, 34, and 34a of this Act for the unlicensed
21 practice of structural engineering.

22 (f) No professional design firm shall be relieved of
23 responsibility for the conduct or acts of its agents,
24 employees, members, managers, or officers by reason of its
25 compliance with this Section, nor shall any individual
26 practicing structural engineering be relieved of the

1 responsibility for professional services performed by reason
2 of the individual's employment or relationship with a
3 professional design firm registered under this Section.

4 (g) Disciplinary action against a professional design firm
5 registered under this Section shall be administered in the same
6 manner and on the same grounds as disciplinary action against a
7 licensed structural engineer. All disciplinary action taken or
8 pending against a corporation or partnership before the
9 effective date of this amendatory Act of 1993 shall be
10 continued or remain in effect without the Department filing
11 separate actions.

12 It is unlawful for any person to practice, or to attempt to
13 practice, structural engineering, without being licensed under
14 this Act. It is unlawful for any business not subject to the
15 sole proprietorship exemption to offer or provide structural
16 engineering services without active registration issued by the
17 Department as a professional design firm or professional
18 service corporation.

19 (Source: P.A. 91-91, eff. 1-1-00.)

20 (225 ILCS 340/20) (from Ch. 111, par. 6620)

21 (Section scheduled to be repealed on January 1, 2010)

22 Sec. 20. Refusal; revocation; suspension.

23 (a) The Department may refuse to issue or renew, or may
24 revoke a license, or may suspend, place on probation, fine, or
25 take any disciplinary or non-disciplinary action as the

1 Department may deem proper, including a fine not to exceed
2 \$10,000 for each violation, with regard to any licensee for any
3 one or combination of the following reasons: ~~The Department~~
4 ~~may, singularly or in combination, refuse to issue, renew, or~~
5 ~~restore, or may suspend or revoke any license or certificate of~~
6 ~~registration, or may place on probation, reprimand, or fine,~~
7 ~~with a civil penalty not to exceed \$10,000 for each violation,~~
8 ~~any person, corporation, partnership, or professional design~~
9 ~~firm registered or licensed under this Act for any of the~~
10 ~~following reasons:~~

11 (1) Material misstatement in furnishing information to
12 the Department;

13 (2) Negligence, incompetence or misconduct in the
14 practice of structural engineering;

15 (3) Making any misrepresentation for the purpose of
16 obtaining licensure;

17 (4) The affixing of a licensed structural engineer's
18 seal to any plans, specifications or drawings which have
19 not been prepared by or under the immediate personal
20 supervision of that licensed structural engineer or
21 reviewed as provided in this Act;

22 (5) Conviction of, or entry of a plea of guilty or nolo
23 contendere to, any crime that is a felony under federal law
24 or the law of any state or U.S. territory, or a misdemeanor
25 of which an essential element is dishonesty, or which is
26 directly related to the practice of the profession.

1 ~~Conviction of any crime under the laws of the United~~
2 ~~States, or any state or territory thereof, which is a~~
3 ~~felony, whether related to the practice of Structural~~
4 ~~Engineering or not, or conviction of any crime, whether a~~
5 ~~felony, misdemeanor, or otherwise, an essential element of~~
6 ~~which is dishonesty, or which is directly related to the~~
7 ~~practice of structural engineering;~~

8 (6) Making a statement of compliance pursuant to the
9 Environmental Barriers Act, as now or hereafter amended,
10 that a plan for construction or alteration of a public
11 facility or for construction of a multi-story housing unit
12 is in compliance with the Environmental Barriers Act when
13 such plan is not in compliance;

14 (7) Failure to comply with any of the provisions of
15 this Act or its rules;

16 (8) Aiding or assisting another person in violating any
17 provision of this Act or its rules;

18 (9) Engaging in dishonorable, unethical or
19 unprofessional conduct of a character likely to deceive,
20 defraud or harm the public, as defined by rule;

21 (10) Habitual or excessive use or addiction to alcohol,
22 narcotics, stimulants, or any other chemical agent or drug
23 that results in the inability to practice with reasonable
24 judgment, skill, or safety ~~Habitual intoxication or~~
25 ~~addiction to the use of drugs;~~

26 (11) Failure of ~~A finding by the Board that~~ an

1 applicant or licensee ~~has failed~~ to pay a fine imposed by
2 the Department or a licensee whose license has been placed
3 on probationary status has violated the terms of probation;

4 (12) Discipline by another state, territory, foreign
5 country, the District of Columbia, the United States
6 government, or any other governmental agency, if at least
7 one of the grounds for discipline is the same or
8 substantially equivalent to those set forth in this
9 Section;

10 (13) Failure to provide information in response to a
11 written request made by the Department within 30 days after
12 the receipt of such written request;

13 (14) Physical illness, which results in the inability
14 to practice the profession of structural engineering with
15 reasonable judgment, skill or safety; or

16 (15) Failure to file a return, to pay the tax, penalty,
17 or interest shown in a filed return, or to pay any final
18 assessment of tax, penalty, or interest as required by any
19 tax Act administered by the Department of Revenue, until
20 such time as the requirements of the tax Act are satisfied
21 in accordance with subsection (g) of Section 15 of the
22 Department of Professional Regulation Law of the Civil
23 Administrative Code of Illinois (20 ILCS 2105/2105-15).

24 (a-5) In enforcing this Section, the Department or Board,
25 upon a showing of a possible violation, may order a licensee or
26 applicant to submit to a mental or physical examination, or

1 both, at the expense of the Department. The Department or Board
2 may order the examining physician to present testimony
3 concerning his or her examination of the licensee or applicant.
4 No information shall be excluded by reason of any common law or
5 statutory privilege relating to communications between the
6 licensee or applicant and the examining physician. The
7 examining physicians shall be specifically designated by the
8 Board or Department. The licensee or applicant may have, at his
9 or her own expense, another physician of his or her choice
10 present during all aspects of the examination. Failure of a
11 licensee or applicant to submit to any such examination when
12 directed, without reasonable cause as defined by rule, shall be
13 grounds for either the immediate suspension of his or her
14 license or immediate denial of his or her application.

15 If the Secretary immediately suspends the license of a
16 licensee for his or her failure to submit to a mental or
17 physical examination when directed, a hearing must be convened
18 by the Department within 15 days after the suspension and
19 completed without appreciable delay.

20 If the Secretary otherwise suspends a license pursuant to
21 the results of the licensee's mental or physical examination, a
22 hearing must be convened by the Department within 15 days after
23 the suspension and completed without appreciable delay. The
24 Department and Board shall have the authority to review the
25 licensee's record of treatment and counseling regarding the
26 relevant impairment or impairments to the extent permitted by

1 applicable federal statutes and regulations safeguarding the
2 confidentiality of medical records.

3 Any licensee suspended under this subsection (a-5) shall be
4 afforded an opportunity to demonstrate to the Department or
5 Board that he or she can resume practice in compliance with the
6 acceptable and prevailing standards under the provisions of his
7 or her license. ~~In enforcing this Section, the Board upon a~~
8 ~~showing of a possible violation may compel a person licensed to~~
9 ~~practice under this Act, or who has applied for licensure or~~
10 ~~certification pursuant to this Act, to submit to a mental or~~
11 ~~physical examination, or both, as required by and at the~~
12 ~~expense of the Department. The examining physicians shall be~~
13 ~~those specifically designated by the Board. The Board or the~~
14 ~~Department may order the examining physician to present~~
15 ~~testimony concerning this mental or physical examination of the~~
16 ~~licensee or applicant. No information shall be excluded by~~
17 ~~reason of any common law or statutory privilege relating to~~
18 ~~communications between the licensee or applicant and the~~
19 ~~examining physician. The person to be examined may have, at his~~
20 ~~or her own expense, another physician of his or her choice~~
21 ~~present during all aspects of the examination. Failure of any~~
22 ~~person to submit to a mental or physical examination, when~~
23 ~~directed, shall be grounds for suspension of a license until~~
24 ~~the person submits to the examination if the Board finds, after~~
25 ~~notice and hearing, that the refusal to submit to the~~
26 ~~examination was without reasonable cause.~~

1 ~~If the Board finds a person unable to practice because of~~
2 ~~the reasons set forth in this Section, the Board may require~~
3 ~~that person to submit to care, counseling, or treatment by~~
4 ~~physicians approved or designated by the Board as a condition,~~
5 ~~term, or restriction for continued, reinstated, or renewed~~
6 ~~licensure to practice; or, in lieu of care, counseling, or~~
7 ~~treatment, the Board may recommend to the Department to file a~~
8 ~~complaint to immediately suspend, revoke, or otherwise~~
9 ~~discipline the license of the person. Any person whose license~~
10 ~~was granted, continued, reinstated, renewed, disciplined, or~~
11 ~~supervised subject to such terms, conditions, or restrictions~~
12 ~~and who fails to comply with such terms, conditions, or~~
13 ~~restrictions shall be referred to the Director for a~~
14 ~~determination as to whether the person shall have his or her~~
15 ~~license suspended immediately, pending a hearing by the Board.~~

16 (b) The determination by a circuit court that a licensee is
17 subject to involuntary admission or judicial admission, as
18 provided in the Mental Health and Developmental Disabilities
19 Code, operates as an automatic suspension. Such suspension will
20 end only upon a finding by a court that the patient is no
21 longer subject to involuntary admission or judicial admission,
22 the issuance of an order so finding and discharging the
23 patient, and the recommendation of the Board to the Director
24 that the licensee be allowed to resume practice.

25 (c) The Department shall deny a license or renewal
26 authorized by this Act to a person who has defaulted on an

1 educational loan or scholarship provided or guaranteed by the
2 Illinois Student Assistance Commission or any governmental
3 agency of this State in accordance with subdivision (a)(5) of
4 Section 15 of the Department of Professional Regulation Law of
5 the Civil Administrative Code of Illinois (20 ILCS
6 2105/2105-15). In cases where the Department of Healthcare and
7 Family Services (formerly the Department of Public Aid) has
8 previously determined that a licensee or a potential licensee
9 is more than 30 days delinquent in the payment of child support
10 and has subsequently certified the delinquency to the
11 Department, the Department may refuse to issue or renew or may
12 revoke or suspend that person's license or may take other
13 disciplinary action against that person based solely upon the
14 certification of delinquency made by the Department of
15 Healthcare and Family Services in accordance with subdivision
16 (a)(5) of Section 15 of the Department of Professional
17 Regulation Law of the Civil Administrative Code of Illinois (20
18 ILCS 2105/2105-15).

19 ~~The Department may refuse to issue, or may suspend, the~~
20 ~~license of any person who fails to file a return, or to pay the~~
21 ~~tax, penalty or interest shown in a filed return, or to pay any~~
22 ~~final assessment of tax, penalty or interest, as required by~~
23 ~~any tax Act administered by the Illinois Department of Revenue,~~
24 ~~until such time as the requirements of such tax Act are~~
25 ~~satisfied.~~

26 ~~Persons who assist the Department as consultants or expert~~

1 ~~witnesses in the investigation or prosecution of alleged~~
2 ~~violations of the Act, licensure matters, restoration~~
3 ~~proceedings, or criminal prosecutions, are not liable for~~
4 ~~damages in any civil action or proceeding as a result of such~~
5 ~~assistance, except upon proof of actual malice. The Attorney~~
6 ~~General of the State of Illinois shall defend such persons in~~
7 ~~any such action or proceeding.~~

8 (Source: P.A. 91-91, eff. 1-1-00.)

9 (225 ILCS 340/20.5)

10 (Section scheduled to be repealed on January 1, 2010)

11 Sec. 20.5. Unlicensed practice; violation; civil penalty.

12 (a) Any person who practices, offers to practice, attempts
13 to practice, or holds oneself out to practice structural
14 engineering without being licensed under this Act shall, in
15 addition to any other penalty provided by law, pay a civil
16 penalty to the Department in an amount not to exceed \$10,000
17 ~~\$5,000~~ for each offense as determined by the Department. The
18 civil penalty shall be assessed by the Department after a
19 hearing is held in accordance with the provisions set forth in
20 this Act regarding the provision of a hearing for the
21 discipline of a licensee.

22 (b) The Department has the authority and power to
23 investigate any and all unlicensed activity.

24 (c) The civil penalty shall be paid within 60 days after
25 the effective date of the order imposing the civil penalty. The

1 order shall constitute a judgment and may be filed and
2 execution had thereon in the same manner as any judgment from
3 any court of record.

4 (Source: P.A. 89-474, eff. 6-18-96.)

5 (225 ILCS 340/21) (from Ch. 111, par. 6621)

6 (Section scheduled to be repealed on January 1, 2010)

7 Sec. 21. (a) If any person violates a provision of this
8 Act, the Secretary ~~Director~~ may, in the name of the People of
9 the State of Illinois, through the Attorney General of the
10 State of Illinois, petition for an order enjoining such
11 violation or for an order enforcing compliance with this Act.
12 Upon the filing of a verified petition in such court, the court
13 may issue a temporary restraining order, without notice or
14 bond, and may preliminarily and permanently enjoin such
15 violation. If it is established that such person has violated
16 or is violating the injunction, the Court may punish the
17 offender for contempt of court. Proceedings under this Section
18 are in addition to, and not in lieu of, all other remedies and
19 penalties provided by this Act.

20 (b) If any person practices as a licensed structural
21 engineer or holds himself out as a structural engineer without
22 being licensed under the provisions of this Act, then any
23 licensed structural engineer, any interested party or any
24 person injured thereby may, in addition to the Director,
25 petition for relief as provided in subsection (a) of this

1 Section.

2 (c) Whenever in the opinion of the Department any person
3 violates any provision of this Act, the Department may issue a
4 rule to show cause why an order to cease and desist should not
5 be entered against that person. The rule shall clearly set
6 forth the grounds relied upon by the Department and shall
7 provide a period of 7 days from the date of the rule to file an
8 answer to the satisfaction of the Department. Failure to answer
9 to the satisfaction of the Department shall cause an order to
10 cease and desist to be issued immediately.

11 (Source: P.A. 86-711.)

12 (225 ILCS 340/22) (from Ch. 111, par. 6622)

13 (Section scheduled to be repealed on January 1, 2010)

14 Sec. 22. Investigation; notice. The Department may
15 investigate the actions of any applicant or any person or
16 entity holding or claiming to hold a license or registration or
17 any person or entity practicing, or offering to practice
18 structural engineering. Before the initiation of an
19 investigation the matter shall be reviewed by a subcommittee of
20 the Board according to procedures established by rule for the
21 Complaint Committee. The Department shall, before refusing to
22 issue, restore or renew a license or registration, or
23 discipline a licensee or registrant, at least 30 days prior to
24 the date set for the hearing, notify in writing the applicant
25 for, or holder of, a license or registration of the nature of

1 the charges and that a hearing will be held on the date
2 designated. The Department shall direct the applicant or
3 licensee or registrant or entity to file a written answer to
4 the Board under oath within 20 days after the service of the
5 notice and inform the applicant or licensee or registrant or
6 entity that failure to file an answer will result in default
7 being taken against the applicant or entity or licensee or
8 registrant and that the license or certificate may be
9 suspended, revoked, placed on probationary status, or other
10 disciplinary action may be taken, including limiting the scope,
11 nature or extent of practice, as the Director may deem proper.
12 Written notice may be served by personal delivery or certified
13 or registered mail to the respondent at the address of record
14 ~~his last notification to the Department~~. In case the person or
15 entity fails to file an answer after receiving notice, his or
16 her license or certificate may, in the discretion of the
17 Department, be suspended, revoked, or placed on probationary
18 status, or the Department may take whatever disciplinary action
19 deemed proper, including limiting the scope, nature, or extent
20 of the practice or the imposition of a fine, without a hearing,
21 if the act or acts charged constitute sufficient grounds for
22 such action under this Act. At the time and place fixed in the
23 notice, the Board shall proceed to hear the charges and the
24 parties or their counsel shall be accorded ample opportunity to
25 present such statements, testimony, evidence and argument as
26 may be pertinent to the charges or their defense. The Board may

1 continue a hearing from time to time.

2 (Source: P.A. 87-1031; 88-428.)

3 (225 ILCS 340/23) (from Ch. 111, par. 6623)

4 (Section scheduled to be repealed on January 1, 2010)

5 Sec. 23. Record; transcript. The Department, at its
6 expense, shall preserve a record of all proceedings at the
7 formal hearing of any case ~~involving the refusal to issue,~~
8 ~~restore or renew a license or the discipline of a licensee.~~ The
9 notice of hearing, complaint and all other documents in the
10 nature of pleadings and written motions filed in the
11 proceedings, the transcript of testimony, the report of the
12 Board and the orders of the Department shall be the record of
13 the proceedings. The Department shall furnish a transcript of
14 the record to any person interested in the hearing upon payment
15 of the fee required under Section 2105-115 of the Department of
16 Professional Regulation Law (20 ILCS 2105/2105-115).

17 (Source: P.A. 91-239, eff. 1-1-00.)

18 (225 ILCS 340/24) (from Ch. 111, par. 6624)

19 (Section scheduled to be repealed on January 1, 2010)

20 Sec. 24. Subpoenas; depositions; oaths. The Department has
21 the power to subpoena documents, books, records or other
22 materials and to bring before it any person and to take
23 testimony either orally or by deposition, or both, with the
24 same fees and mileage and in the same manner as is prescribed

1 ~~in civil cases in the courts of this State. The Department has~~
2 ~~power to subpoena and bring before it any person in this State~~
3 ~~and to take testimony either orally or by deposition, or both,~~
4 ~~with the same fees and mileage and in the same manner as~~
5 ~~prescribed by law in judicial proceedings in civil cases in~~
6 ~~circuit courts of this State.~~

7 The Secretary, the designated hearing officer ~~Director,~~
8 and any member of the Board ~~designated by the Director~~ shall
9 each have the power to administer oaths to witnesses at any
10 hearing which the Department is authorized by law to conduct,
11 and any other oaths required or authorized in any Act
12 administered by the Department.

13 (Source: P.A. 86-711.)

14 (225 ILCS 340/26) (from Ch. 111, par. 6626)

15 (Section scheduled to be repealed on January 1, 2010)

16 Sec. 26. At the conclusion of the hearing, the ~~The~~ Board
17 shall present to the Secretary ~~Director~~ its written report of
18 its findings and recommendations. A copy of the report shall be
19 served upon the accused person, either personally or to the
20 address of record by certified or registered mail. The Board
21 may take into consideration in making its recommendations for
22 discipline all facts and circumstances bearing upon the
23 reasonableness of the conduct of the respondent and the
24 potential for future harm to the public, including but not
25 limited to previous discipline by the Department, intent,

1 degree of harm to the public and likelihood of harm in the
2 future, any restitution made, and whether the incident or
3 incidents complained of appear to be isolated or a pattern of
4 conduct. In making its recommendations for discipline, the
5 Board shall endeavor to ensure that the severity of the
6 discipline recommended bears some reasonable relationship to
7 the severity of the violation. Within 20 days after such
8 service, the accused person may present to the Department a
9 motion in writing for a rehearing, which shall specify the
10 particular grounds for rehearing. If the accused person orders
11 and pays for a transcript of the record as provided in this
12 Section, the time elapsing after payment and before the
13 transcript is ready for delivery shall not be counted as part
14 of such 20 days. If no motion for rehearing is filed, then upon
15 the expiration of the time specified for filing the motion, or
16 if a motion for rehearing is denied, then upon such denial, the
17 Secretary ~~Director~~ may enter an order in accordance with
18 recommendations of the Board ~~except as provided in Section 8 of~~
19 ~~this Act.~~

20 Whenever the Secretary ~~Director~~ is not satisfied that
21 substantial justice has been done, he may order a rehearing by
22 the same or another special board. At the expiration of the
23 time specified for filing a motion for a rehearing, the
24 Secretary ~~Director~~ has the right to take the action recommended
25 by the Board. Upon the suspension or revocation of his license,
26 a licensee shall be required to surrender his license to the

1 Department, and upon his failure or refusal to do so, the
2 Department shall have the right to seize the same.

3 (Source: P.A. 86-711.)

4 (225 ILCS 340/27) (from Ch. 111, par. 6627)

5 (Section scheduled to be repealed on January 1, 2010)

6 Sec. 27. Notwithstanding the provisions of Section 26 of
7 this Act, the Secretary ~~Director~~ shall have the authority to
8 appoint any attorney duly licensed to practice law in the State
9 of Illinois to serve as the hearing officer in any action for
10 discipline of a licensee. ~~The Director shall notify the Board~~
11 ~~of any such appointment.~~ The hearing officer has full authority
12 to conduct the hearing. The Board has the right to have at
13 least one member present at any hearing conducted by such
14 hearing officer. The hearing officer shall report his findings
15 of fact, conclusions of law and recommendations to the Board
16 and the Secretary ~~Director~~. The Board shall have 60 days from
17 receipt of the report to review the report of the hearing
18 officer and present their findings of fact, conclusions of law
19 and recommendations to the Director. If the Board fails to
20 present its report within the 60 day period, the Secretary
21 ~~Director~~ shall issue an order based on the report of the
22 hearing officer. If the Secretary ~~Director~~ disagrees in any
23 regard with the report of the Board or hearing officer, he may
24 issue an order in contravention thereof. The Secretary ~~Director~~
25 shall notify ~~provide a written explanation to~~ the Board on any

1 such deviation, ~~and shall specify with particularity the~~
2 ~~reasons for such action in the final order.~~

3 (Source: P.A. 86-711.)

4 (225 ILCS 340/28) (from Ch. 111, par. 6628)

5 (Section scheduled to be repealed on January 1, 2010)

6 Sec. 28. Order or certified copy; prima facie proof. An
7 order or a certified copy thereof, over the seal of the
8 Department and purporting to be signed by the Secretary
9 ~~Director~~, shall be prima facie proof that:

10 1. the signature is the genuine signature of the
11 Director;

12 2. the Secretary ~~Director~~ is duly appointed and
13 qualified; and

14 3. the Board and the members thereof are qualified to
15 act.

16 Such proof may be rebutted.

17 (Source: P.A. 91-357, eff. 7-29-99.)

18 (225 ILCS 340/31) (from Ch. 111, par. 6631)

19 (Section scheduled to be repealed on January 1, 2010)

20 Sec. 31. The Secretary ~~Director~~ may temporarily suspend the
21 license of a structural engineer without a hearing,
22 simultaneously with the institution of proceedings for a
23 hearing provided for in Section 22 of this Act, if the
24 Secretary ~~Director~~ finds that evidence in his possession

1 indicates that a structural engineer's continuation in
2 practice would constitute an imminent danger to the public. In
3 the event that the Secretary ~~Director~~ temporarily suspends the
4 license of a structural engineer without a hearing, a hearing
5 by the Board must be commenced within 30 days after such
6 suspension has occurred.

7 (Source: P.A. 86-711.)

8 (225 ILCS 340/13 rep.)

9 Section 10. The Structural Engineering Practice Act of 1989
10 is amended by repealing Section 13.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.

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